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FISCAL IMPACT STATEMENT

LS 7023

BILL NUMBER: HB 1340

NOTE PREPARED: Jan 11, 2008

BILL AMENDED:

SUBJECT: Privatization Review Committee.

FIRST AUTHOR: Rep. Micon

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: ☒ **GENERAL**
DEDICATED
FEDERAL

IMPACT: State

Summary of Legislation: *Privatization Review Committee:* The bill establishes the Privatization Review Committee. It requires the Committee to: (1) review a privatization plan before the plan is implemented; and (2) make advisory recommendations to the Governor.

Privatization Plans: The bill requires a state agency to develop a privatization plan before privatizing any state program. It requires the state agency to hold a hearing on the plan and report the results of the hearing to the public and the Committee.

Reorganization Act of 1967: The bill requires that certain privatization contracts must be approved under the "Reorganization Act of 1967". It provides that such a privatization contract entered into in violation of the Reorganization Act of 1967 is void. It makes technical changes in the Reorganization Act of 1967.

Cost-Benefit Analysis: It requires a state agency to perform a cost-benefit analysis before entering into a contract for services. It also requires the Department of Administration to compile semiannual reports on the cost-benefit analysis for each contract.

Effective Date: Upon passage.

Explanation of State Expenditures: *Summary-* To the extent that a reorganization would include a privatization contract of more than \$100 M and a term of more than two years, the bill would have increased costs for the Governor to make a determination for a reorganization of state government and present the reorganization in the form of a bill to the General Assembly. The Governor's plan to reorganize would be submitted first to the Privatization Review Committee established under the bill. Also, the bill could increase

costs minimally for state agencies (to develop privatization plans) that enter into contracts with private sector persons for a value more than \$10 M.

Background Information and Details-

Privatization Review Committee: This bill establishes the 15-member Privatization Review Committee, consisting of 12 legislators and 3 lay members. The Committee is responsible for holding hearings to (1) review plans of state agencies that are privatizing programs with a value of more than \$10 M, and (2) make an advisory recommendation to the Governor regarding the plan. The Committee may meet at any time during the year upon the call of the chairperson.

Members of the Committee who are not members of the General Assembly are not entitled to the minimum salary per diem provided under Indiana law. However, a member of the General Assembly is entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties. Members of the Committee who are members of the General Assembly are entitled to receive the same per diem, mileage, and travel allowances paid to legislative members of interim study committees established by the Legislative Council. The Legislative Services Agency provides staff to the Committee, and the Committee will operate under the rules for interim committees adopted by the Legislative Council. Expenses of the Committee are paid from state General Fund appropriations made to the Legislative Council or the Legislative Services Agency.

Legislative Council resolutions in the past have established budgets for interim study committees in the amount of \$9,500 per interim for committees with fewer than 16 members.

Reorganization of State Government: To the extent that a reorganization would include a privatization contract, the bill would have minimal increased costs for the Governor to make a determination for a reorganization of state government and present the reorganization in the form of a bill to the General Assembly.

Under current law, the Governor is required from time to time to examine the organization of state agencies, and prepare and submit a reorganization plan to the General Assembly if the Governor finds a change would promote the execution of laws, reduce expenditures, increase efficiency, better group functions of government, reduce the number of agencies, eliminate overlap or duplication, or increase the control of the electorate.

A reorganization under current law includes the transfer of the whole or part of an agency, the abolition of all or a part of an agency's function, the consolidation or coordination of the whole or part of more than one state agency, the authorization for an officer to delegate the officer's functions, or the abolition of all or part of an agency. The bill adds the awarding of a privatization contract that has a value of more than \$100 M and that has a term of more than two years.

If the Governor determines a reorganization is necessary, the Governor is to prepare a reorganization plan and submit the plan to the General Assembly. The reorganization plan must include a message indicating the statutory authority for a function that is proposed to be abolished and the expected reduction of expenditures. It must make provision for the transfer of records, property, personnel, or funds and make provisions for terminating the affairs of any abolished agency. It must enumerate all of the statutes which may be repealed by the reorganization, and it must include a bill. The bill only takes effect if it is enacted by the General

Assembly. For a reorganization plan including privatization, the plan must be reviewed by the Committee under the bill.

State Agency Privatization Plan: The bill requires a state agency to prepare a privatization plan if the privatization contract has a dollar amount greater than \$10 M. Not less than 60 days before a privatization plan becomes effective, the state agency must submit the plan to the Privatization Review Committee. This provision of the bill should have minimal fiscal impact. The vast majority of the requirements falling under the state agency's responsibilities are currently completed during contract procurement processes. Agencies should be able to collect any additional information required by the provisions of the bill within the existing level of resources available to the agency.

Cost-Benefit Analysis: Under current law, a state agency must justify the cost effectiveness of a contract for services to the Commissioner of the Department of Administration. The bill requires a cost-benefit analysis be prepared and submitted to the Commissioner of the Department of Administration and the Legislative Council and available to the public at least 90 days before the effective date of contract. Preparing a cost-benefit analysis would have indeterminate but minimally increased cost for agencies entering into a contract for services. The resources required to perform a cost-benefit analysis depend upon the expertise needed to develop cost information. Additionally, the Department of Administration could incur minimal costs to compile semiannual reports on the cost-benefit analyses. The bill specifies that the Commissioner of the Department of Administration is not required to file the first report until February 1, 2009.

The funds and resources required above could be supplied through a variety of sources, including the following: (1) existing staff and resources not currently being used to capacity; (2) existing staff and resources currently being used in another program; (3) authorized, but vacant, staff positions, including those positions that would need to be reclassified; (4) funds that, otherwise, would be reverted; or (5) new appropriations. Ultimately, the source of funds and resources required to satisfy the requirements of this bill will depend upon legislative and administrative actions.

Explanation of State Revenues:

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: Department of Administration; Governor; General Assembly; Legislative Services Agency; state agencies undertaking privatization contracts.

Local Agencies Affected:

Information Sources:

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